



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/298,508	04/22/1999	YANN ECHELARD	10275/122001	2099

31904 7590 05/14/2003

GTC BIOTHERAPEUTICS, INC.
175 CROSSING BOULEVARD, SUITE 410
FRAMINGHAM, MA 01702

EXAMINER

WOITACH, JOSEPH T

ART UNIT

PAPER NUMBER

1632

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



File

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/298,508	4/22/1999	Echelard et al.	GTC-32C

EXAMINER	
Joseph Weitach	
ART UNIT	PAPER NUMBER
1632	25

Please find below a communication from the EXAMINER in charge of this application

See Examiner's action attached.

Art Unit: 1632

DETAILED ACTION

This application filed April 22, 1999, claims benefit to provisional application 60/106,728, filed November 2, 1998.

Applicants' amendment filed February 27, 2003, paper number 24, has been received and entered. Claims 31, 34, 48-55, 60, 61, 65-73, 86-90, 94 and 95 have been canceled. Claims 35-43, 56-58 and 91-93 have been amended. Claims 96-119 have been added. Claims are pending and currently under examination.

Oath/Declaration

The declaration filed February 27, 2003, attached to paper number 24, is in compliance with 37 CFR 1.67(a).

Election/Restriction

Newly amended claims 35-44, 47, 56-58, 91-93 and 96-119 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The previous claims were directed to preparations of embryonic and fetal caprine somatic cells, and a method to make genetically engineered cell lines comprising producing a non-human embryo by inseminating a female known to have a transgene present and obtaining a somatic cell from the resulting transgenic embryo (claim 91). The claims have not been amended to

Art Unit: 1632

encompass two methods: (1) a method for preparing a genetically engineered mammal comprising the step of performing nuclear transfer with a differentiated somatic cell line (newly amended claim 91 and dependent claims 114-119); and (2) a method for the accelerated production of a transgenic animals by performing two nuclear transfer steps (claim 96 and dependent claims 35-44, 47, 56-58, 92, 93 and 96-113). The methods presented in the amended claims are directed to materially different methods than previously presented and result in materially different products. Previously, neither the product nor the method recited or required the practice of nuclear transfer. Further, the previous method was drawn to method of generating a somatic cell line and did not require the generation of a cloned transgenic non-human animal generated by nuclear transfer. T

he amended claims encompass inventions which are unrelated to that previously set forth. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are drawn to different methods which require different method steps and result in different products. Each method would require a separate search because of the different method steps. Further, a search of the art for differentiated somatic cells does not require a search of the art for generating transgenic animals, in particular the generation by nuclear transfer. Finally, the resulting products are materially different, and a search for somatic cells and cell lines does not require a search for their use in methods of nuclear transfer. Because these inventions are distinct for the reasons

Art Unit: 1632

given above and have acquired a separate status in the art because of their recognized divergent subject matter, and would have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 35-44, 47, 56-58, 91-93 and 96-119 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on February 27, 2003, paper number 24, amending all the claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). As set forth above, all the pending claims are directed to an invention which would have been restricted if originally presented together.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Art Unit: 1632

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (703)305-3732.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds, can be reached at (703)305-4051.

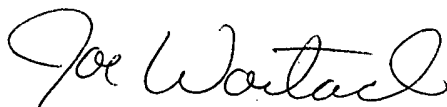
Any inquiry of a general nature or relating to the status of this application should be directed to the Group analyst Dianiece Jacobs whose telephone number is (703) 308-2141.

Papers related to this application may be submitted by facsimile transmission. Papers should be faxed via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center numbers are (703)308-4242 and (703)305-3014.

Joseph T. Woitach



DEBORAH CROUCH
PRIMARY EXAMINER
GROUP 1800/630



AU 1632